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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/561,768 | 03/23/2006 | Yury Gogotsi | DXYC-0039 / 03-0501D | 1617 |

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| EXAMINER |
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HENDRICKSON, STUART L

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| ART UNIT | PAPER NUMBER |
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1793

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| MAIL DATE | DELIVERY MODE |
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10/04/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/561,768 | Applicant(s) GOGOTSI ET AL. | |
| | Examiner Stuart Hendrickson | Art Unit 1793 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 8-15, 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4-6, 8, 9, 11-15, 17, 19, 20 are rejected under 35 U.S.C. 103(a) as obvious over Leis article.

Leis teaches on pg. 2043-2044 reacting AlC and halogen gas at several temperatures. The teaching of Ti, Si carbide is noted. No difference is seen in the product porosity. As to claim 20, using the intervals of 100 degrees is obvious to better characterize the materials. The claimed verbiage is not taught, however no differences are seen since the claims permit freely choosing small differences in temperature to get essentially the same result. In fact, the claims (other than 20) read upon an attempt to duplicate an experiment but having a small unavoidable minor temperature fluctuation between runs.

Claims 1, 2, 4-6, 8-15, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leis taken with El-Raghy.

Leis does not teach the compound of claim 2. El-Raghy teaches it as a composite of TiC and SiC. Using it as a source is an obvious expedient to make the desired carbon, noting that Leis teaches carbides as useful materials in the introduction.

Claims 1, 4-6, 8-15, 17, 19, 20 are rejected under 35 U.S.C. 103(a) as obvious over Boehm article.

Page 149 teaches narrow-pore distribution carbon made from reacting TaC with at 500C. The results of several different temperatures are plotted and correlated. As to claim 20, using the intervals of 100 degrees is obvious to better characterize the materials. The claimed verbiage is not taught, however no differences are seen since the claims permit freely choosing small differences in temperature to get essentially the same result. In fact, the claims (other than 20) read upon an attempt to duplicate an experiment but having a small unavoidable minor temperature fluctuation between runs.

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Claims 1, 4, 6, 8-14, 17, 19, 20 are rejected under 35 U.S.C. 103(a) as obvious over Mohun 3066099.

The reference teaches, especially in col. 6, 10, 35 and 36 heating SiC with chlorine at various temperatures to make a microporous material. No difference is seen in the pore distribution. The claimed verbiage is not taught, however no differences are seen since the claims permit freely choosing small differences in temperature to get essentially the same result. In fact, the claims (other than 20) read upon an attempt to duplicate an experiment but having a small unavoidable minor temperature fluctuation between runs.

Applicant's arguments filed 3/3/10 have been fully considered but are not persuasive.

The references provided have different experiments at different temperatures which yield essentially the same results. Thus, these diverse runs at large and deliberate temperature differences are enough to knock out patentability. Once this hurdle is crossed, then applicant can face the challenge of minor temperature fluctuation. See also remarks of last office action.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

/Stuart Hendrickson/
Primary examiner Art Unit 1793